

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 22-22671-CIV-ALTONAGA/Torres

DELIO BATISTA, et al.,

Plaintiffs,

v.

AVANT ASSURANCE INC., et al.,

Defendants.

/

ORDER

THIS CAUSE came before the Court on two motions: Defendant, Avant Assurance, Inc.’s Rule 59 Motion for New Trial and Unopposed Motion for Leave to Amend [ECF No. 113], filed on August 14, 2023; and Plaintiffs’ Motion to Alter or Amend Judgment to add Prejudgment Interest [ECF No. 11], filed on August 3, 2023.

Following the jury trial (*see* [ECF Nos. 98–100, 102–03]), the Court entered Final Judgment [ECF No. 106] in accordance with the Verdict [ECF No. 104], awarding Delio Batista the sum of \$54,511.00; Carlos Lopez the sum of \$38,957.00; Mariana Lopez the sum of \$15,576.00; and Rafaela Valiente the sum of \$68,120.00. (*See* Final Judgment ¶¶ 1–4). In their opposed Motion, Plaintiffs seek to alter the Final Judgment to include an award of prejudgment interest to each Plaintiff. (*See generally* Pls.’ Mot.).

In its Motion, Defendant contests the sufficiency of the evidence supporting the damages awarded and further seeks a remittitur on the basis that the damages are excessive. (*See generally* Def.’s Mot.). While Defendant’s Motion is timely filed, the official trial transcripts have not yet been completed, and so the Motion is based on Defendant’s “best efforts to draft a motion for new trial in the absence of a trial transcript.” (*Id.* 7 (citations omitted)). Defendant requests “leave to

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amend or supplement this motion upon receipt and review of the transcript.” (*Id.* (citations omitted)). Plaintiffs do not oppose Defendant’s request for leave to supplement the Motion, but they do oppose the request for a new trial or remittitur. (*See id.* 8).


Being full advised, it is

ORDERED AND ADJUDGED as follows:

1. Defendant’s Motion for New Trial [ECF No. 113] is **ACCEPTED as timely filed** but **DENIED without prejudice**. The Court and the parties will benefit from waiting for a complete record. Accordingly — rather than having the parties supplement or amend their briefing (the Motion and any response and reply memoranda) once the trial transcript is completed — Defendant may file a renewed motion for a new trial and/or remittitur within **fourteen (14) days** of receipt of the trial transcript.

2. Plaintiffs’ Motion to Alter or Amend Judgment to add Prejudgment Interest [ECF No. 110] is **DENIED without prejudice**. Because Defendant’s request for a new trial puts the Final Judgment [ECF No. 106] into question, resolving the merits of Plaintiffs’ Motion at this time is premature. Should the Court ultimately deny Defendant’s request, Defendant will be directed to respond to the Motion to Alter or Amend Judgment.

DONE AND ORDERED in Miami, Florida, this 15th day of August, 2023.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record